

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DONALD R. MOATS,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:18-CV-170
(GROH)**

**DEBRA MINNIX, Administrator,
BETSY JIVIDEN, Commissioner,
JEFF SANDY, Cabinet secretary,
TAMMY MILLER, Doctor,
Tygart Valley Regional Jail,
KATHY WEEKLY, Head Nurse, and
MRS. CAMFIELD, In charge of housing,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 12] on February 10, 2020. In his R&R, Magistrate Judge Trumble recommends that the Plaintiff’s § 1983 Complaint [ECF No. 1] be denied and dismissed without prejudice for failure to exhaust all available administrative remedies prior to filing suit.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140,

150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of a plaintiff's right to appeal this Court's Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Plaintiff on February 11, 2020. ECF No. 12. On March 10, 2020, the Court directed the Clerk to send a copy of the R&R to the Plaintiff's new address.¹ ECF No. 13. The R&R was returned as undeliverable on March 12, 2020. ECF No. 14. Accordingly, the Plaintiff did not file objections. However, "all *pro se* litigants are responsible for promptly informing the Court of any change in their address, monitoring the progress of their case, and prosecuting or defending their actions diligently." LR PL P 6. Failure to notify the Clerk of Court of an address change will result in dismissal of the prisoner's case. Id. Thus, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 12] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE**.

This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return

¹ According to the West Virginia Division of Corrections and Rehabilitation Offender Search, the Plaintiff is presently confined at Parkersburg Correctional Center in Parkersburg, West Virginia. See West Virginia Division of Corrections and Rehabilitation Offender Search, <https://apps.wv.gov/ois/offendersearch/doc> (last visited March 16, 2020).

receipt requested, at his last known address as reflected on the docket sheet.

DATED: March 16, 2020



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE